

REMARKS

The following is in response to each of the matters in the outstanding Official Action. Claims 1 to 4, 6, 7, 12, 13, 15, 20, 23, 26, 28, 31 to 35, 37, 38, 43, 44, 51, 54, 57, 65 and 66 remain for consideration on the merits in the subject case, all other claims having been withdrawn from consideration. Reconsideration of the remaining claims is respectfully requested.

A. Final Election/Restriction Requirement

Initially in the Official Action the restriction requirement made previously has now been made final, denying Applicants' prior request of March 13, 2008, for reconsideration. In response Applicants are concurrently filing a Petition, Under 35 C.F.R. § 1.114, for Review of Final Requirement of Restriction.

B. Information Disclosure Statement

Misnumbered U.S. Patent No. 3,330,891, supposedly to 0Branemark, et al., cited in Applicants' Information Disclosure Statement of July 8, 2005, was not considered. In response, an Information Disclosure Statement citing the correct U.S. Patent No. 4,330,891 to Branemark, et al., along with a copy of that patent, are submitted herewith. Applicants' attorneys regret this error.

C. Objection to Claims 26 and 57

Claims 26 and 57 were objected to for alleged informalities. In response, those claims have been amended as suggested by the Examiner.

D. Prospective Objections to Claims Based on Double Patenting

Further, the Official Action advises that should Claims 32 to 35, 37, 38, 43, 44, 51, 54, 57 and/or 66 be found allowable, Claims 1 to 4, 6, 7, 12, 13, 20, 23, 26 and/or

65 will be objected to under 37 C.F.R. § 1.75 based on alleged “same invention” double patenting. It is respectfully requested that any further action on the latter, pending claims on this basis, be held in abeyance until allowable subject matter is indicated.

E. Rejection of Claims Under 35 U.S.C. §112

Claims 1 to 4, 6, 7, 12, 13, 15, 20, 23, 26, 28, 31 and 65 were rejected under 35 U.S.C. § 112 as allegedly being indefinite in their use of the term “closely” to modify the term “spaced”. It is asserted that the term “closely” is not defined by the claims and that the specification does not provide a standard for determining the degree of “closeness”. This rejection is respectfully traversed.

Paragraph 0074 of the Specification at pages 12 and 13, in conjunction with Figures 7 and 8, provides dimensions of protrusions in the form of threads 41 from which, it is respectfully submitted, the closeness of spacing of the threads can be discerned. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

F. Rejection of Claims Under 35 U.S.C. §103

Finally, all pending claims were rejected as obvious under 35 U.S.C. § 103, in view of various combinations of references. However, as noted in the Letter Accompanying Application dated January 27, 2004, in the subject case and reiterated in the Response to Restriction Requirement dated March 13, 2008, the claims of the subject application were copied either identically or in modified form from Claims 1 to 10, 13, 16, 17, 20 and 22 to 25 of U.S. Patent No. 6,511,509 (Ford et al.) for purposes of provoking an interference. Accordingly, Applicants are concurrently filing a Request for Reexamination of the Ford Patent in view of application of these citations to reject the identical or nearly identical claims in the subject application and, therefore, in order to determine the

patentability of the claims to both parties. In addition, Applicants are concurrently filing a Petition Under 37 C.F.R. § 103(a) for Suspension of Further Action on the subject application for six (6) months pending action on Applicants' Request for Reexamination.

CONCLUSION

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ronald A. Clayton", written over a horizontal line.

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